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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,148	03/29/2004	Gary W. James	METZ 200011US01	2979
27885	7590	05/06/2010		
FAY SHARPE LLP 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115			EXAMINER ING, MATTHEW W	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 05/06/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/812,148	Applicant(s) JAMES ET AL.	
	Examiner MATTHEW W. ING	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/26/10 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the dimples extending completely through circular openings (claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 5-6, & 9 are objected to under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, neither the complete extension of dimples through circular openings, nor the absence of support members upon a support wall, is illustrated in the drawings as originally filed, nor mentioned in the written description. As such, the limitations, "wherein one of said dimples of one of said first, second and third support members extends completely through one of said pair of circular openings" and "wherein the support wall does not have support members for supporting said shelf" are viewed as constituting new matter.

Claim Rejections - 35 USC § 103

5. Claims 1, 5-6, & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winqvist (1,164,439) in view of Vargo (4,553,725), Young (3,677,202), Evans (3,168,365), & Znamirowski (4,288,132).

6. Winqvist teach(es) the structure substantially as claimed, including a second side wall (2 or 3 on one side of the cabinet) positioned opposite a first side wall (2 or 3 on the other side of

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the cabinet); a third wall (11) interconnecting the first and second side walls; a base wall (45) interconnecting the first, second and third walls; first & second support members (8) punched out of and extending from the first or second side walls such that a first or second opening is formed through the first or second side wall adjacent the first or second support member, the second support member is positioned at substantially the same height from the base wall as the first support member on the first wall, wherein the first & second support members (8) each include a straight first leg extending perpendicular to the first side wall and a straight second leg extending perpendicular from the first leg spaced from and substantially parallel to the first or second side wall, the second leg includes first and second linear portions; a removable shelf (52) including a planar surface and a first, second, third, & fourth flanges each depending from an end of the planar surface; and flanges (front surfaces of 2 & 3) having at least one circular opening (through which 15 or 19 passes) formed therein (see Fig. 3).

7. The only difference between Winquist and the invention as claimed is that Winquist fail(s) to teach a rounded portion extending between said first and second linear portions and a hemispherical dimple with rounded edges punched in a straight portion of the second leg, wherein said dimple extends toward said first opening; a third support member upon the third wall; a door hingedly connected to one of said first and second side walls and said base wall; wherein each of said flanges of said shelf comprises a pair of circular openings for receiving completely therethrough one of said dimples of one of said first, second and third support members; and disposition of a support wall between first & second side walls along a direction perpendicular to a shelf.

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8. Vargo, however, teaches the inclusion of a hemispherical dimple (94) with rounded edges punched in a straight portion of the second leg, wherein said dimple extends toward a first opening; as well as the inclusion, in opposed shelf flanges (84), of a pair of circular openings (88) through which dimples are capable of completely extending. See Figs. 1-4. Additionally, Young teaches rounding a portion extending between first & second linear portions. See Fig. 4. Additionally, Evans teaches the inclusion of a third support member (on 18) upon a rear wall, said third support member being identical to first & second support members (on 46); as well as disposition of a support wall (45) between first (12) & second (13) side walls along a direction perpendicular to a shelf (20). Additionally, Znamirowski teaches the inclusion of a door (16-17) hingedly connected to one of said first and second side walls (13-14). It is noted that the support members (47) of Evans do not, and are not capable of, supporting the shelf (20) thereof, owing to the relative positions of said components.

9. It would have been obvious to one of ordinary skill in the art to include hemispherical dimples & circular openings, as taught by Vargo, upon the support members & flanges, respectively, of Winqvist, in order to provide a more secure connection therebetween; to provide the support members of Winqvist as modified by Vargo with rounded upper edges, as taught by Young, in order to facilitate assembly of the cabinet; and to reduce the probability of physical harm to a user via the elimination of sharp corners; to add a third support member to the third wall of Winqvist as modified by Vargo & Young, said third support member being identical to the first & second support members thereof, as taught by Evans, in order to provide additional support to the shelf thereof; to add a support wall, as taught by Evans, beneath the shelf of Winqvist as modified, in order to permit better organization of the contents beneath said shelf

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while providing additional support thereto; and to include add doors, as taught by Znamirowski, to the cabinet of Winqvist, in order to permit concealment of the contents thereof, thereby providing the structure substantially as claimed.

10. Regarding claims 6 & 9, the support members of Winqvist are considered lances, Winqvist teaches a cabinet fabricated from metal (page 1, line 10).

Response to Arguments

11. Applicant's arguments with respect to claims 1, 5-6, 9, & 14 have been considered but are not persuasive. Said arguments have been addressed in the prior art rejection above.

Conclusion

12. This is a Request for Continued Examination of the instant application. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered earlier in prosecution. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,

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event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

MWI
4/28/10